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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,246

01/11/2006

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04/03/2008

EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

04/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,246	Applicant(s) DELFINI ET AL.	
	Examiner Clark F. Dexter	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/11/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement filed on January 11, 2006 has been received and the references listed thereon have been considered.

Drawings

3. The drawings are objected to because of the following informalities:

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Also in Figure 1, numeral 16 is described but not shown and should be added for clarity; and a lead line should be added for numeral 18.

In Figure 2, numeral 131 is described but not shown and should be added for clarity.

In Figure 3, a numeral should be added to indicate the housing wall described on page 6, line 15 for clarity.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the restoring spring set forth in claim 6 along with its surrounding structure as set forth in claim 9, and the motor as set forth in claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application as described above.

Abstract

5. The abstract of the disclosure is objected to because of the following informalities:

In line 4, "is disclosed" is improper; in line 12, the "for" should read --with--, "novel" is improper, "disclosed here (Fig. 2)" is improper.

Correction is required. See MPEP § 608.01(b).

Specification

6. The disclosure is objected to because of the following informalities:

On page 1, line 8, the reference to claim 1 is improper.

On page 2, line 23, the reference to claim 1 is improper.

On page 4, line 26, "15" should be deleted since the description at this location refers to Figure 1 and not to the shown occurrence of numeral 15 which is in the embodiment of Figure 2.

On page 5, line 3, it seems that "17", which is not shown, should be deleted for clarity and simplicity; in line 15, "the through opening" should be changed to --a through opening--, and --21-- should be inserted after "guide device" for clarity.

On page 6, line 3, "29" is inaccurate and should read --31--; In lines 12, 15 and 22, "runup" should be changed to -- run-up -- for clarity; in line 15, a numeral should be inserted after "housing wall" for clarity; in line 19, "tensed" should be changed to --tensioned-- for clarity.

On page 7, line 6, "30" should be changed to --30, 31-- for clarity and accuracy; in line 19, --(not shown)-- should be inserted after "spring" for clarity, and "runup" should be changed to -- run-up -- for clarity.

Appropriate correction is required.

Claim Objections

7. Claims 6-10 are objected to because of the following informalities:

In claim 6, line 5, "runup" should read -- run-up -- for clarity.

In claim 7, line 2, "runup" should read -- run-up -- for clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. Claims 2 and 4-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 3, "it" is vague and indefinite as to what it refers.

In claim 4, line 5, "the spacing" lacks positive antecedent basis; in line 5, "the bearing point" lacks antecedent basis.

In claim 5, line 3, the recitation "at the time" renders the claim vague and indefinite as to what structure is being set forth.

In claim 6, line 3, "it" is vague and indefinite as to what it refers; also in line 3, "[noun missing]" is vague and indefinite as to what is being claimed; in line 7, "which" is vague and indefinite as to what it refers.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kalber et al. pn 5,540,129.

Kalber discloses a base plate and scroll saw with a base plate in Figures 9 and 10 with every structural limitation of the claimed invention including guiding elements (e.g., 32, 32).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalber et al. pn 5,540,129 in view of East, pn 344,175 and/or Rennie, pn 930,228 and/or WO 02/22297 (hereafter WO '297).

Kalber discloses a base plate and scroll saw with a base plate in Figures 9 and 10 with almost every structural limitation of the claimed invention but lacks the guide device located between the bottom plate and a work plate, and lacks a pusher mechanism and the specific configuration of the guide device. However, such structure is old and well known in the art. For example, it is old and well known to provide a housing around the guide device for various known benefits including protecting the guiding devices from the surrounding environment. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a housing on the device of Kalber to gain the well known benefits including that described above. Further, the Examiner takes Official notice that pusher mechanisms and guide devices having the claimed configuration are old and well known in the art and provide various well known benefits such as facilitating simultaneous operation of the guide device. East and Rennie each discloses one example of such a configuration. Therefore, it would have

been obvious to one having ordinary skill in the art to provide such pusher mechanism and guide device configuration on the device of Kalber to gain the well known benefits including that described above.

Allowable Subject Matter

14. Claims 6-10 appear that they would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
March 29, 2008